

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CRIMINAL NO. 1:09CR23

UNITED STATES OF AMERICA

VS.

KENNETH LEE GARDNER

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ORDER

**THIS MATTER** is before the Court on Defendant's *pro se* appeal of the Magistrate Judge's oral order denying bond and ordering him detained pending plea/trial.

Because the Defendant is currently represented by counsel, his *pro se* motions will be summarily denied. ***United States v. D'Amario*, 2008 WL 624768 at \*1, 2008 U.S. App. LEXIS 5079 at \*4 (3d Cir. 2008)** (holding that district courts are not obligated to consider *pro se* motions from a defendant who is represented by counsel because "[t]he Constitution does not confer a right to proceed simultaneously

**by counsel and *pro se***"). The Defendant is instructed to communicate with the Court only through his attorney.<sup>1</sup>

**IT IS, THEREFORE, ORDERED** that Defendant's *pro se* appeal of the Magistrate Judge's detention order is hereby **DENIED**.

Signed: May 13, 2009

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg  
United States District Judge



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<sup>1</sup> At the bond hearing held May 6, 2009, Defendant was admonished by the Magistrate Judge to refrain from filing frivolous *pro se* motions and to bring matters to the Court's attention only through his attorney.